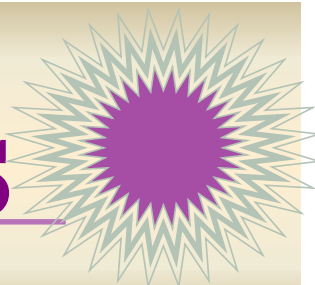


Ethics News



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Character and the Presidency

The following article is reprinted with the permission of TomPaine.com. Thomas C. Reeves, author of the article, is professor of history at the University of Wisconsin-Parkside and the author of A Question of Character : A Life of John F. Kennedy.

Good character is a major quality we need in a chief executive. And it has long been so recognized. Thomas Jefferson paid tribute to George Washington's "perfect" character, noting especially his integrity, prudence, dignity, and sense of justice. Every presidential election in our history has contained references to the vital link between character and the White House.

Character is what a person really is, at the deepest level. (Personality may or may not be an accurate reflection.). . . Good character begins with integrity, defined as a "firm adherence to a code of especially moral values," values that are thought to be high and true. Good character begins with integrity. Is the person in question honest? And it includes such qualities as compassion, generosity, prudence, courage, loyalty, responsibility, temperance, humility, and perseverance. . . .

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For better or for worse, presidents have always been thought to be moral exemplars. This image was created by George Washington, and while there have been presidents who have fallen far short of his standards, the great majority have done reasonably well on this score.

The moral tone of the American people is formed in part by the vision and conduct of the nation's most prominent and powerful individual. The figures chiseled in stone at Mount Rushmore and the many monuments visited by millions annually in the nation's capital illustrate the public's respect for leaders who have exhibited the full range of qualities normally associated with good character. . . .

Of course, saints cannot reach the Oval Office. American politics has always required a measure of accommodation and artful deception that the most scrupulous find objectionable. The necessity of fund-raising, especially in recent years, has particularly limited the possibilities of men and women of outstanding character even to run for the presidency. Still, good people are always available, and the avenues of political opportunity have not been entirely closed to them. . . .

Good character, while not everything, is the vital framework for a successful and honorable presidency. The president today is the most powerful person on the planet, and it is important that the conduct of the occupant of the Oval Office be based on integrity, prudence, responsibility, courage, and the other virtues widely acknowledged to be beneficial for centuries. . . .

As I have written elsewhere, "A knowledge of what the president sees as right and wrong, good and bad, will give us a fuller and more accurate picture of the stature of the man and the nature of his leadership."

Recent Enforcement Proceedings

The State Ethics Commission adopted the following reports regarding two individual respondents, both of whom had waived their right to a public hearing, and entered into agreed settlements.

Case 00-C-10, Post-Employment Restriction

On September 12, 2002, the Commission accepted a proposed Agreed Settlement by a former employee of the Indiana Department of Environmental Management (IDEM).

IDEM employed the former employee from April 1994 until December 1999, when the former employee left state government. Shortly before leaving IDEM, the former employee held the title of Senior Environmental Manager in IDEM's Office of Enforcement. His primary responsibilities were related to case management.

In October 1998, the former employee was assigned as case manager overseeing the investigation of a company that was alleged to have had an ongoing discharge of polychlorobiphenyls ("PCBs") into the Shelley Ditch in Crawfordsville, Indiana. The PCBs ultimately discharged in the nearby Sugar Creek. The case involved various environmental issues, including issues related to public and aquatic health.

The former employee remained on the case until his resignation on December 3, 1999, although his actual role was diminished as of May 1999.

The former employee's responsibilities involving the case included: issuing a Notice of Violation to the company; representing IDEM in a settlement conference; inspecting the Shelly Ditch site; participating in internal discussions with other IDEM staff; and attending conferences between representatives of IDEM and the company.

When attempts by IDEM to negotiate a settlement with the company failed, IDEM staff, in 1999, began drafting a Commissioner's Order, in which IDEM would impose a civil penalty for the company's violation of Indiana environmental laws and regulations.

On October 25, 1999, the former employee reviewed and endorsed the revised draft. On or about October 25, 1999, he discussed the recalculation of the proposed penalty with another IDEM case manager. The former employee then prepared civil penalty worksheets for the company and submitted his penalty recalculations to IDEM's attorney.

Following his separation from IDEM employment in December 1999, the former employee worked as an independent contractor for an engineering firm, which was a consultant to the company in the above mentioned IDEM case.

In September 2000, the former employee, working through the engineering firm, requested information and a public document to review from IDEM. The gathering of information was related to and was undertaken for the benefit of the same com-

pany in the IDEM case on which the former employee had worked while at IDEM. Thus, the former employee violated [IC 4-2-6-11\(d\)](#) when he became involved with the company's action within 12 months of his last responsibility in the matter. Prior to working with the engineering firm, the former employee did not personally request a written waiver of the 12-month prohibition nor did he seek an advisory opinion from the Commission. As to this legal requirement for a waiver, the former employee believed his situation did not necessitate any such waiver because of his diminished role as of May 1999.

On June 21, 2001, the Commission found that probable cause existed to support an allegation that the former employee violated the 12-month post-state employment restriction.

While not admitting to conduct constituting a violation of Ind. Code § 4-2-6-11(d), the former employee did not contest the violation. The former employee agreed the violation referenced above constituted cause for disciplinary action of a civil penalty of \$500.00.

Case 02-C-9, Honorarium

On September 12, 2002, the Commission accepted a proposed Agreed Settlement from the Director of Pharmacy at a state hospital.

In his capacity as Pharmacy Director, the respondent receives invitations to special events and various educational lectures that pharmaceutical companies sponsor. Frequently, the lectures accompany other events that include some type of entertainment or honorarium.

In the agreed settlement, the respondent admitted that he violated [40 IAC 2-1-6](#) when he accepted things of value from representatives of a pharmaceutical company, a business entity over which the pharmacist has discretion. At a regional consulting meeting and dinner in Louisville, the respondent accepted an honorarium of \$250.

While the respondent does not directly order pharmaceuticals from the pharmaceutical company, the company does have a financial interest in the purchases of its drugs that the respondent makes through a distributor.

The respondent acknowledged that the pharmaceutical company maintains a business relationship (as defined in [40 IAC 2-1-4](#)) with the state agency that employs him.

The respondent agreed the violation referenced above constitutes cause for disciplinary action of a written reprimand from his agency and a fine of \$750.



For information on investigations, go to [40 IAC 2-3-2](#).

To file a complaint with the Ethics Commission, click on [Request for Investigation](#).

No. 02-I-3, Post-Employment Restriction September 12, 2002

Background

The State Ethics Commission received a request for an opinion from a Tax Credit Allocation Manager for the Rental Housing Tax Credit Program at the Indiana Housing Finance Authority. The state employee had drafted the changes and amendments to the Qualified Allocation Plan for 2002, but was not involved in the process for the 2003 allocation. The employee is planning to leave state government and is interested in working for a recipient of a 2002 award. She would be working on applications for the 2003 awards.

Question

May a former state employee who administered a grant program become an employee of an awardee of the program for the purpose of assisting the awardee and other persons with future applications?

Facts

The state employee administered a program that allocated Rental Housing Tax Credits. The credits are allocated on a competitive basis to for-profit and not-for-profit developers of affordable rental housing who submit an application pursuant to the Qualified Allocation Plan. After the applications for the Credits for 2002 were reviewed and scored by department staff, the state employee made the recommendations for funding awards to the Executive Director based on how the applications were ranked. The state employee is interested in working for a recipient of a 2002 award.

Relevant Law

[IC 4-2-6-11, Post-Employment Restriction](#)

Conclusion

The Commission found that it would not be a violation of state ethics rules on post-employment for a former state employee to assist an awardee of a program that she had administered with future applications to the program. The Commission concluded that applications for credits for 2003 are a different particular matter than those for 2002.

Commission meetings are open to the public and held the second Thursday of the month. Normal starting time is 10:00 a.m.



The louder he talked of his honour, the faster we counted our spoons.

——— Ralph Waldo Emerson
The Conduct of Life

Unofficial Advisory Opinions

This article briefly reviews questions recently addressed by the Ethics Commission staff. These opinions are not intended as a comprehensive analysis of the issue raised. For more information on whether and how this information may apply in another situation, contact your agency ethics officer or the State Ethics Commission.

#123, Post-Employment Restriction, IC 4-2-6-11; Conflict of Interest, IC 4-2-6-9

In 1992, the State Legislature passed a law that requires new and altered regulated lifting devices to be inspected for the initial inspection by a licensed elevator inspector in order to obtain an operating permit for the device. The inspector does not have to be a state employee.

A state elevator inspector wants to know if he may leave state government and go into business performing these inspections. He would also like to communicate with contractors in the business to see if they would be interested in his services.

There are two aspects to this question: before the employee leaves state government and after he leaves. Before leaving state government, if the employee's responsibilities involve the companies he would like to contact, he may not do so. The employee would have to be screened from dealings with these companies. Being screened means that someone else in the employee's department would have to handle all of the companies the employee wishes to contact. The employee may not approach a company for which he has responsibility for regulating or overseeing. Doing so would constitute a conflict of financial interest.

After leaving state government, the employee is bound by the post-employment restriction. It says in substance, that a former employee may not represent or assist a company in regard to a particular matter in which the employee participated personally and substantially for twelve months after the former employee had responsibility for the particular matter. In this case the particular matter would be the former employee's responsibilities involving the companies he wished to contact. However, the former employee would be able to represent or assist these companies on new licenses.

#124, Situation Outside the Rules

A state employee would like to know if her agency could surplus, to state employees, software made obsolete by Microsoft's new upgrading policy. Since new software must now be purchased, some of the agency's software cannot be upgraded. The new licenses, however, would still be valid on the obsolete software.

According to the Division of Information Technology, Department of Administration, licenses cannot be transferred or even "surplused." The licenses are for a particular entity, the State, and cannot be transferred.

What About the Fruit Baskets?

(See Guide: [Holiday Gifts](#))



It's that time of year when people often want to express their gratitude and appreciation by giving gifts. Often agencies will receive gifts of food and refreshments with a nominal market value to be shared in the office among several employees. These items may be accepted at the discretion of the agency head or ethics officer. Tangible items may be accepted by an agency and become state property. Agencies are discouraged from accepting gifts from persons with whom they have (or are considering) a business relationship.

Individuals being offered gifts should look at the [basic rule, 40 IAC 2-1-6](#) which says:

1. If you have discretion to take some action toward the gift-giver, you are not permitted to accept a gift (except nominal advertising giveaways given to the general public).
2. If the situation is one in which you could not take discretionary action toward the gift-giver but the gift-giver has a business relationship with your agency, you may accept gifts having a value of \$25 or less.
3. Without written approval, you may not accept gifts with a value of more than \$25 in a calendar year from a gift-giver who has a business relationship with your agency.

2003 Winter/Spring Classes

Ethics Orientation
(10:00 - 11:00 a.m.)

February 18
Conference Center, Room 1

April 16
Conference Center, Room 1

Ethics for Supervisors & Managers (10:00 -12:00 P.M..)

February 26
Conference Center, Room C

April 15
Conference Center, Room C

Classes are in the State Conference Center or Training Center
Indiana Government Center South
402 W. Washington St., Indianapolis, IN

To register, call (317) 232-3850 or visit our
Web site at www.ethics.IN.gov

Any thoughts on the newsletter?

Please send your questions or comments to: Mary Hill

email: mhill@ethics.state.in.us, or

call: (317) 232-3850, or

write: Indiana State Ethics Commission

402 W. Washington St., Rm. W189

Indianapolis, Indiana 46204

For more information on ethics, log on to www.ethics.IN.gov.